



HOUSE OF REPRESENTATIVES

H. No. 5515

BY REPRESENTATIVES ESCUDERO, BADELLES, CELESTE, FIGUEROA,
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MARCOLETA, ABAYON, PABLO, CODILLA AND SUSANO, PER
COMMITTEE REPORT NO. 1714

AN ACT ORDAINING THE DEVELOPMENT OF THE DOWNSTREAM
NATURAL GAS INDUSTRY, CONSOLIDATING FOR THE
PURPOSE ALL LAWS RELATING TO THE TRANSMISSION,
DISTRIBUTION AND SUPPLY OF NATURAL GAS AND FOR
OTHER PURPOSES

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

1 CHAPTER I

2 TITLE AND DECLARATION OF POLICY

3 SECTION 1. *Short Title.* – This Act shall be known as the “Downstream
4 Natural Gas Industry Development Act of 2006”. It shall hereinafter be
5 referred to as the Act.

6 SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the
7 State:

8 (a) To promote the role of natural gas as a socially-acceptable,
9 environment-friendly and economically efficient source of energy by creating
10 favorable conditions for establishing a Downstream Natural Gas Industry for
11 the benefit of all segments of the nation’s population and all sectors of its
12 economy;

1 (b) To ensure the safety, quality, reliability and security of the
2 transmission, distribution and supply of natural gas;

3 (c) To ensure transparent and reasonable rates and prices of natural gas
4 transmission, distribution and supply in a regime of open and fair competition
5 and full public accountability that will promote greater operational and
6 economic efficiency and the enhanced competitiveness of Philippine products
7 in the global market;

8 (d) To encourage the inflow of private capital in providing the
9 infrastructure and services necessary to support an expanded role of natural
10 gas in the nation's energy supply;

11 (e) To protect the public interest as it is affected by the quality of, and
12 rates charged for, the transmission, distribution and supply of natural gas and
13 related services;

14 (f) To assure the development of a Downstream Natural Gas Industry
15 infrastructure that is socially-acceptable and compliant with existing
16 environmental laws;

17 (g) To ensure that the Downstream Natural Gas Industry shall be
18 regulated in a manner that will ensure the quality, reliability, security and
19 reasonableness of charges for the transmission, distribution and supply of
20 natural gas, encourage private investment in the Downstream Natural Gas
21 Industry and promote the efficient and competitive operation thereof;

22 (h) To develop the necessary trades, technical expertise and skills to
23 support the Downstream Natural Gas Industry;

24 (i) To facilitate the development of end-uses of natural gas that
25 promotes fuel diversity and compliance with existing environmental laws
26 including, but not limited to, the use of natural gas as a motor vehicle fuel; and

27 (j) To encourage equity participation in gas transmission utilities and
28 gas distribution utilities by the private sector.

29 SEC. 3. *Scope.* — This Act shall provide a framework for the
30 development of a Downstream Natural Gas Industry and its transition from an
31 emerging to a mature industry status and competitive natural gas market, and

1 define the responsibilities of various government agencies and private entities
2 in furtherance of this national goal.

3 All activities of the Department of Energy (DOE) and the Energy
4 Regulatory Commission (ERC) relevant to the development and regulation of
5 the Downstream Natural Gas Industry shall be in accordance with this Act.

6 SEC. 4. *Definition of Terms.* – As used in this Act, the following terms
7 shall have the following meanings:

8 (a) “Captive market”:

9 ● with respect to the transmission of natural gas, refers to natural gas
10 end-users who do not have a choice of a gas transmission utility;

11 ● with respect to the distribution of natural gas, refers to natural gas
12 end-users who do not have a choice of a gas distribution utility;

13 ● with respect to the supply of natural gas, refers to natural gas end-
14 users who do not have a choice of supplier of natural gas or other
15 economically competitive energy substitute;

16 (b) “Congress” refers to the Congress of the Republic of the
17 Philippines;

18 (c) “Contestable market” is a market that is not a captive market;

19 (d) “Delivery” refers to the transmission or distribution of natural gas
20 and the supply of natural gas, at wholesale or retail;

21 (e) “Department of Energy” or “DOE” refers to the government
22 agency created pursuant to Republic Act No. 7638, as amended;

23 (f) “Department of Environment and Natural Resources” or “DENR”
24 refers to the government agency created pursuant to Executive Order Nos. 192
25 and 292, as amended;

26 (g) “Distribution” refers to the conveyance of natural gas by a gas
27 distribution utility through its gas distribution system;

28 (h) “Downstream Natural Gas Industry” refers to the transmission,
29 distribution and supply of natural gas and related activities, such as, but not
30 limited to, processing, storing, regasification, interconnection, measurement
31 and/or metering;

1 (i) "End-user" refers to any person that will receive delivery of natural
2 gas for its own use;

3 (j) "Energy Regulatory Commission" or "ERC" refers to the
4 independent quasi-judicial regulatory agency created pursuant to Republic Act
5 No. 9136, otherwise known as the "Electric Power Industry Reform Act of
6 2001", whose expanded functions are provided in this Act;

7 (k) "Franchise" refers to the right, privilege and authority issued by
8 Congress authorizing a person to engage in the transmission of natural gas
9 and/or distribution of natural gas within a specific geographical area;

10 (l) "Franchise area" refers to a geographical area assigned or granted
11 under a franchise;

12 (m) "Gas Distribution Code" refers to the code to be formulated by the
13 DOE pursuant to Section 5(g) of this Act that sets the technical performance
14 standards for operating gas distribution utilities and the minimum financial
15 standards for gas distribution systems;

16 (n) "Gas distribution system" refers to the system of pipelines and
17 related facilities extending from the delivery points where the gas distribution
18 system receives the natural gas to the point of connection to the premises of
19 the end-user;

20 (o) "Gas distribution utility" refers to any person that has a franchise to
21 operate a gas distribution system;

22 (p) "Gas supply contract" refers to a contract between a supplier and a
23 purchaser for the supply of natural gas;

24 (q) "Gas Transmission Code" refers to the code to be developed by the
25 DOE pursuant to Section 5(g) of this Act that sets the technical performance
26 standards for operating gas transmission systems and the minimum financial
27 standards for gas transmission utilities;

28 (r) "Gas transmission system" refers to the system of high pressure
29 pipelines, storage and related facilities that are used to transport natural gas
30 from the interconnection with gathering facilities, liquefied natural gas (LNG)

1 regasification facilities or other gas transmission systems to gas distribution
2 systems, other gas transmission systems or end-users;

3 (s) "Gas transmission utility" refers to any person that has a franchise
4 to operate or intending to operate a gas transmission system except own-use
5 pipelines;

6 (t) "Gathering facilities" refers to natural gas pipelines and related
7 facilities used to gather gas in the field and bring it to a location for processing
8 or for delivery at an interconnection with the gas transmission system. The
9 terms "gather" and "gathering" shall be construed accordingly;

10 (u) "Infrastructure development period" refers to the period prescribed
11 in Chapter IV of this Act;

12 (v) "Joule" refers to the unit of energy or work done when the point of
13 application of a force of one Newton is displaced a distance of one meter in
14 the direction of the force. It is also equal to one watt-second;

15 (w) "Large end-user" refers to an end-user whose aggregate annual
16 natural gas consumption is one thousand (1,000) gigajoules (gross heating
17 value) or greater, as may be determined by the ERC;

18 (x) "LNG" refers to liquefied natural gas";

19 (y) "Natural gas" refers to hydrocarbons, obtained initially from sub-
20 surface reservoirs, primarily methane, which, at atmospheric temperature and
21 pressure, is in a gaseous phase. The term "natural gas" shall include LNG;

22 (z) "Permit" refers to an authorization issued by the DOE, initially, for
23 the construction, operation, expansion and modification of gas transmission
24 systems, gas distribution systems and for the supply of natural gas;

25 (aa) "Person" refers to a natural or juridical person, as the case may
26 be, including the national and local government of the Republic of the
27 Philippines, its agencies and instrumentalities, and government-owned and
28 -controlled corporations;

29 (bb) "Petroleum operations" refers to searching for and obtaining
30 petroleum within the Philippines through drilling and pressure or suction or
31 the like, and all other operations incidental thereto. It includes the

1 transportation, storage, handling and sale (whether for export or for domestic
2 consumption) of petroleum so obtained but does not include any: (1)
3 transportation of petroleum outside the Philippines; (2) processing or refining
4 at a refinery; or (3) any transaction in the products so refined;

5 (cc) "Philippine Energy Plan" or "PEP" refers to the overall energy
6 program formulated and updated yearly by the DOE and submitted to
7 Congress pursuant to Republic Act No. 7638, as amended;

8 (dd) "Service contract" refers to the award granted by the Philippine
9 government to a qualified person to engage in the exploration, development
10 and utilization of natural resources through joint venture, co-production,
11 production-sharing or other similar arrangement with the State pursuant to
12 Article XII, Section 2 of the Constitution, including service contracts under
13 Presidential Decree No. 87, as amended;

14 (ee) "Supplier" refers to any person authorized by the DOE, initially,
15 to engage in the supply of natural gas;

16 (ff) "Supply" refers to the domestic trading and/or sale of natural gas
17 for wholesale or retail;

18 (gg) "Transmission" refers to the transportation of natural gas through
19 a gas transmission system; and

20 (hh) "Unbundled service" refers to the pricing of the energy value of
21 natural gas separately from the rates charged for natural gas transmission or
22 distribution.

23 CHAPTER II

24 POWERS AND FUNCTIONS OF THE DOE AND THE ERC

25 SEC. 5. *Powers and Functions of the DOE.* -- In addition to its existing
26 powers and functions, the DOE shall have the overall responsibility of
27 supervising and monitoring the development of the Downstream Natural Gas
28 Industry and regulation of the construction and operation of natural gas
29 pipelines and related facilities for the transmission, distribution and supply of
30 natural gas. Towards this end, the DOE shall have the following powers and
31 functions:

1 (a) Prepare and periodically update a Downstream Natural Gas
2 Industry Development Plan (DNGIDP) and integrate the same into the PEP.
3 The DNGIDP shall consider and integrate the individual or joint development
4 plans of the Downstream Natural Gas Industry participants pursuant to this
5 Act, which are submitted to the DOE. Appropriate mechanisms shall be
6 provided to protect the confidentiality of any information that is commercially
7 or competitively sensitive. The DOE shall publish an initial draft of the plan
8 and undertake public consultations thereon prior to its adoption;

9 (b) Issue permits for the construction, operation and maintenance of
10 pipelines and related facilities for the transmission, distribution and/or supply
11 of natural gas;

12 (c) Establish standards setting forth the characteristics for classifying
13 pipeline and pipeline-related facilities either as gas transmission systems or
14 gas distribution systems. These characteristics may include both the physical
15 characteristics related to the diameter, size and pressure of pipeline facilities,
16 and the functional characteristics of such facilities;

17 (d) Before the end of April of each year, submit to the Office of the
18 President and Congress an annual report;

19 (e) Ensure the safety, reliability, quality and security of supply of
20 natural gas. Consistent with the development of the Downstream Natural Gas
21 Industry, the DOE shall, among others:

22 (i) Encourage private sector investments in the Downstream Natural
23 Gas Industry and promote the development of domestic markets for natural
24 gas;

25 (ii) In consultation with the Downstream Natural Gas Industry
26 participants and other government agencies, promote a system of incentives to
27 encourage industry participants, including new producers and end-users, to
28 provide adequate and reliable supply of natural gas; and

29 (iii) Undertake, in coordination with other governmental agencies, as
30 appropriate, an information campaign to educate the public on the benefits of

1 developing the Downstream Natural Gas Industry and the potential for
2 utilizing natural gas as a source of energy.

3 (f) *Within six months from the effectivity of this Act, develop plans*
4 *and programs to encourage market development and customer choice;*

5 (g) *Within twelve (12) months from the effectivity of this Act, the*
6 *DOE shall, preparatory to the holding of public consultations with the*
7 *Downstream Natural Gas Industry participants, draft the Gas Transmission and*
8 *Distribution Codes which shall contain, among others, the following:*

9 (i) *Technical performance standards for gas transmission and*
10 *distribution utilities: *Provided*, That in the establishment of the performance*
11 *standards, the nature and function of the entities shall be considered; and*

12 (ii) *Minimum financial capability standards for gas transmission and*
13 *distribution utilities: *Provided*, That such standards are set to ensure that the*
14 *Downstream Natural Gas Industry participants meet the minimum financial*
15 *standards to protect the public interest.*

16 *Within eighteen (18) months from the effectivity of this Act, the DOE*
17 *shall, in consultation with the Downstream Natural Gas Industry participants,*
18 *issue the final Gas Transmission and Distribution Codes.*

19 (h) *By order, revoke, after due notice and hearing, the permit of any*
20 *person that fails to comply with the rules and regulations promulgated*
21 *pursuant to this Act, the Gas Transmission Code, the Gas Distribution Code,*
22 *or any requirement of this Act. The DOE shall allow such persons sufficient*
23 *time to remedy the violation of or for an orderly disgorgement, when*
24 *applicable, but in no case shall such remediation period exceed twelve (12)*
25 *months from the date of issuance of the order;*

26 (i) *Encourage private enterprises in the Downstream Natural Gas*
27 *Industry to broaden their ownership base and promote widest public*
28 *ownership thereof;*

29 (j) *Formulate, in consultation with the Downstream Natural Gas*
30 *Industry participants, the rules and regulations as may be necessary to*
31 *implement the objectives of this Act;*

1 (k) Exercise original and exclusive jurisdiction over all cases
2 contesting permits, nonprice regulation, fees, fines and penalties imposed by it
3 in the exercise of the abovementioned powers and functions; and

4 (l) Exercise such other powers and functions as may be necessary or
5 incidental to attain the objectives of this Act.

6 Subject to existing rules and regulations, the DOE is hereby authorized
7 to create offices and appoint personnel thereto as may be necessary to
8 efficiently and effectively perform its functions as stipulated in this Act.

9 SEC. 6. *Powers and Functions of the ERC.* – In addition to its existing
10 powers and functions, the ERC shall have the sole regulatory responsibility for
11 establishing the rates and related terms and conditions of service for the
12 transmission, distribution and supply of natural gas to the extent that such
13 activities are regulated pursuant to the requirements set forth in this Act. It
14 shall:

15 (a) Within one year from the effectivity of this Act, promulgate, upon
16 due notice and public consultation, rules and regulations to promote
17 competition and prohibit/penalize abuse of market power, cartelization and
18 any anti-competitive or discriminatory behavior, in order to further the intent
19 of this Act and protect the public interest. Such rules and regulations shall:

20 (i) Define the relevant product and geographic markets for purposes of
21 establishing anti-competitive conduct;

22 (ii) Provide criteria to determine the relevant market structure; and

23 (iii) Establish the periodic reportorial requirements of the Downstream
24 Natural Gas Industry participants as may be necessary to enforce the
25 provisions of this section.

26 (b) In the public interest, establish and enforce a methodology for
27 setting transmission, distribution and supply rates, taking into account all
28 relevant considerations, including the efficiency or inefficiency of the
29 regulated entities. The rates must be such as to allow the recovery of just and
30 reasonable costs and a reasonable return to enable the entity to operate viably.

31 The ERC may, upon due notice and public consultation, adopt internationally

1 accepted rate setting methodology. The rate setting methodology so adopted
2 and applied shall promote efficiency and ensure a reasonable price or tariff.
3 The rates prescribed shall be nondiscriminatory;

4 (c) Apply administrative procedures that will ensure the constitutional
5 right to due process;

6 (d) Before the end of April of each year, submit to the Office of the
7 President of the Philippines and Congress, copy furnished the DOE, an annual
8 report containing such matters or cases which have been filed before or
9 referred to it during the preceding year, the actions and proceedings
10 undertaken and its decision or resolution in each case. The ERC shall make
11 copies of such report available to any interested party upon payment of a
12 charge which reflects the printing costs;

13 (e) Publish in newspapers of general circulation all its decisions
14 involving rates and anticompetitive cases; and

15 (f) Exercise such other powers as may be necessary or incidental to
16 attain the objectives of this Act.

17 Subject to existing rules and regulations, the ERC is hereby authorized
18 to create offices and appoint personnel thereto as may be necessary to
19 efficiently and effectively perform its functions as stipulated in this Act.

20 CHAPTER III

21 ORGANIZATION AND OPERATION OF THE DOWNSTREAM,

22 NATURAL GAS INDUSTRY

23 SEC. 7. *Organization.* – For purposes of this Act, the Downstream
24 Natural Gas Industry shall be divided into three sectors, namely: transmission
25 of natural gas, distribution of natural gas and supply of natural gas.

26 SEC. 8. *Regulation of Transmission, Distribution and Supply Sectors.*
27 – The transmission, distribution and supply of natural gas are businesses
28 affected with public interest and the regulation of these businesses as provided
29 for in this Act is hereby deemed necessary in the public interest.

30 SEC. 9. *Franchise Requirement.* –

1 (a) Transmission and distribution of natural gas declared public utility
2 operations. – The transmission and distribution of natural gas as provided for
3 in this Act are hereby declared to be public utility operations, requiring a
4 franchise;

5 (b) Franchise. – Any person that seeks to operate for commercial
6 purposes a gas transmission system or gas distribution system shall be required
7 to obtain a franchise, any law to the contrary notwithstanding. The franchise
8 requirement shall apply with respect to all gas transmission systems and gas
9 distribution systems, regardless of the size or pressure of the pipeline. The
10 foregoing, notwithstanding, this franchise requirement shall not apply to:

11 (i) Holders of service contracts which authorizes the construction and
12 operation of facilities for the transmission of natural gas only to the extent that
13 such facilities are: (1) for own use; (2) used to transport natural gas from the
14 point of extraction or production to the processing or gathering facility; and
15 (3) used to provide service to existing customers or such person under a gas
16 supply contract entered into prior to the effectivity of this Act, which gas
17 supply contract shall not be affected by the enactment of this Act.

18 However, the operation of any pipeline facility used to serve or deliver
19 natural gas to third persons, whether or not such facility was, prior to such
20 operation, previously utilized only as a gathering facility, shall require a
21 franchise.

22 (ii) Operators of pipeline facilities to transport natural gas for their
23 own use: *Provided, however,* That such operators shall secure a permit from
24 the DOE as provided herein; and

25 (iii) Operators of related facilities that are operated independently
26 from the pipeline.

27 The franchise so granted shall include a provision that shall honor and
28 protect the forty percent (40%) share of local government units (LGUs) from
29 the proceeds of the gross collection derived by the national government from
30 its share in any co-production, joint venture or production-sharing agreement
31 in the utilization and development of the national wealth within their territorial

1 jurisdiction, pursuant to Article X, Section 7 of the Constitution and Section
2 290 of Republic Act No. 7160, otherwise known as the Local Government
3 Code of 1991, as amended. The share of the LGU concerned shall be included
4 automatically in the General Appropriations Act following the year the
5 revenue was generated.

6 (c) Prior regulatory approvals. – The grantee of such franchise shall
7 also be required to secure from the DOE a permit as provided herein, and to
8 secure from the appropriate government agencies all other regulatory
9 approvals, licenses, permits and authorizations applicable to such grantee
10 under existing laws. The DOE shall not unreasonably withhold or delay the
11 grant of any permit, and may not reopen any legislative determination in the
12 review and grant of any franchise.

13 SEC. 10. *Philippine Ownership Requirement.* – As required under
14 Article XII, Section 11 of the Constitution of the Republic of the Philippines,
15 no franchise, certificate, or any other form of authorization of a public utility
16 shall be granted except to citizens of the Philippines or to corporations or
17 associations organized under the laws of the Philippines at least sixty percent
18 (60%) of whose capital is owned by such citizens.

19 SEC. 11. *Third Party Access.* –

20 (a) *Third Party Access Obligation.* – Gas transmission systems and gas
21 distribution systems excluding those constructed and operated for own use or
22 as part of gathering facilities of service contractors shall be available for
23 nondiscriminatory access by third party users which may include parties to a
24 service contract, suppliers and customers, with due regard to the economic
25 viability of the operation of such facilities. Such operators shall negotiate in
26 good faith with third party users the provisions and terms of access in
27 accordance with the guidelines to be promulgated by the DOE;

28 (b) *Available Capacity.* – Third party access obligations shall apply
29 only to the available capacity of the gas transmission systems and gas
30 distribution systems as determined by subtracting from the design capacity of

1 the gas transmission systems and gas distribution systems the volume of
2 capacity that is:

3 (i) Used by the owner or operator to serve his own customer; and/or

4 (ii) Allocated to third parties under transportation contracts.

5 Nondiscriminatory third party access shall be available to users by
6 contract with the gas transmission or gas distribution utility. If the gas
7 transmission or gas distribution utility with available capacity refuses service
8 to a user or offers discriminatory service, the affected party may request for
9 the intervention of the ERC. The gas transmission or gas distribution utility
10 shall be required to file proof that capacity was not available when service was
11 denied.

12 Gas transmission utilities shall not be obligated to undertake, nor may
13 the DOE require, the expansion of an existing gas transmission system to serve
14 additional customers or the sizing of a gas transmission system for the purpose
15 of increasing capacity to serve load in excess of the load proposed to be served
16 by the gas transmission utility. However, in situations where no entity is
17 interested to build additional transmission capacity in any franchise area, the
18 DOE may conduct a public bidding and award the same to the lowest bidder.

19 (c) Deferment of Third Party Access Obligation. – As may be
20 provided in the permit, the implementation of third party access to gas
21 transmission systems and gas distribution systems may be deferred where,
22 upon the determination by the DOE:

23 (i) It can be demonstrated that such deferment is necessary to enable
24 the efficient planning of the infrastructure and aggregation of the initial
25 demand necessary to justify investments in the gas transmission systems and
26 gas distribution systems; or

27 (ii) It is in the interest of the customers served by the gas transmission
28 system and gas distribution system to ensure stability of supply.

29 In either case, the DOE may not defer implementation of third party
30 access for a period longer than three years after completion of construction in
31 the case of gas transmission systems and five years after completion of

1 construction in the case of gas distribution systems: *Provided, however,* That
2 the deferment period may be extended on reasonable grounds.

3 (d) Approved Access Conditions for Gas Transmission Utilities and
4 Gas Distribution Utilities. – Prior to the conduct of negotiations with third
5 parties; a gas transmission utility and a gas distribution utility shall request the
6 DOE to approve its access conditions in accordance with the third party access
7 guidelines to be promulgated by the DOE in consultation with the industry
8 participants.

9 SEC. 12. *Environmental Protection.* – Gas transmission utilities, gas
10 distribution utilities and suppliers shall comply with all environmental laws,
11 rules, regulations and standards promulgated by the Department of
12 Environment and Natural Resources (DENR) and other appropriate
13 governmental agencies.

14 CHAPTER IV

15 DELIVERY INFRASTRUCTURE DEVELOPMENT PERIOD

16 SEC. 13. *Infrastructure Development Period.* – To encourage initial
17 capital investment in new infrastructure that is critical for developing a viable
18 Downstream Natural Gas Industry, gas transmission utilities and gas
19 distribution utilities shall, during the infrastructure development period as set
20 forth herein, be exempted from the ERC regulation of rates for the
21 transmission and distribution of natural gas to large end-users that have the
22 ability to use alternative fuels in lieu of natural gas in accordance with the
23 criteria to be set by the ERC, including the following:

24 (a) The investment is necessary to develop new sources of gas supply
25 or new gas markets; and

26 (b) The exemption is not detrimental to competition or the effective
27 functioning of the relevant geographic or product market, or the efficient
28 functioning of the regulated system to which the new infrastructure is
29 connected as determined by the DOE.

30 Such provision shall also apply to significant increases of capacity in
31 existing infrastructure and to any modification of such infrastructure to enable

1 the development of new sources of gas supply and new gas markets. The
2 exemption may cover all or parts of the new infrastructure, the existing
3 infrastructure with significantly increased capacity or the modification of the
4 existing infrastructure.

5 SEC. 14. *Term of Infrastructure Development Period.* — The
6 infrastructure period shall be for a 15-year period beginning in a particular
7 franchise area, on the date of commencement of operation of the pioneer gas
8 transmission system or gas distribution system constructed after the effectivity
9 of this Act: *Provided, however,* That the expiration of the infrastructure
10 development period shall not affect any contract for the transmission or
11 distribution of natural gas entered during such period.

12 CHAPTER V

13 NATURAL GAS TRANSMISSION SECTOR

14 SEC. 15. *Permit.* — No person or entity shall undertake the
15 construction, operation and maintenance of a natural gas transmission system
16 unless it has secured a franchise: *Provided, however,* That for a period not
17 exceeding five years after the effectivity of this Act, the DOE may issue a
18 provisional permit with a maximum term of two years, renewable twice for a
19 maximum cumulative term not exceeding six years for the continued operation
20 of a gas transmission system constructed prior to and in operation as of the
21 date of effectivity of this Act: *Provided, further,* That during the same period,
22 the DOE may issue a permit for the expansion, extension or modification of a
23 natural gas transmission system.

24 The DOE shall issue a public notice of all permit applications and
25 afford interested parties reasonable opportunity to comment upon such
26 applications: The DOE shall issue a permit upon its determination that the
27 construction, ownership, control, installation, operation and maintenance of
28 the gas transmission systems would be consistent with the policy declarations
29 contained in this Act: *Provided, however,* That if a permit is sought for new
30 service that would be provided within the franchise area of a gas distribution

1 utility, the DOE shall consider the economic effects of granting such a permit
2 upon the gas distribution utility and its customers.

3 SEC. 16. *Terms and Conditions of Permits.* – In issuing a permit, the
4 DOE shall have the power to impose such reasonable terms and conditions as
5 the public interest may require. Among such conditions shall be the
6 requirement that the permit holder complies in full with the Gas Transmission
7 Code promulgated by the DOE pursuant to Section 5(g) of this Act.

8 SEC. 17. *Fees.* – The DOE shall have the authority to prescribe and
9 collect fees and charges relating to the issuance and/or review of permits,
10 supervision and regulation of gas transmission systems.

11 SEC. 18. *Abandonment of Gas Transmission Systems.* – No holder of a
12 permit for the construction, installation, operation or maintenance of a gas
13 transmission system shall abandon or withdraw from service any portion of
14 such gas transmission system without obtaining prior authorization from the
15 DOE, which determination shall be made within one hundred eighty (180)
16 days from the filing of the application for abandonment. Such abandonment
17 shall be done in accordance with existing laws.

18 SEC. 19. *Gas Transmission Code Compliance.* – All gas transmission
19 utilities shall ensure the safety, reliability, adequacy, security, stability and
20 integrity of their gas transmission systems in accordance with the technical
21 specifications and performance standards set forth in the Gas Transmission
22 Code to be promulgated by the DOE. Each gas transmission utility shall
23 submit to the DOE a statement of its compliance with such technical
24 specifications and performance standards prescribed in the Gas Transmission
25 Code. Any gas transmission utility that does not comply with any of the
26 prescribed technical specifications or performance standards shall include in
27 such statement of compliance an undertaking to comply with said technical
28 specifications and performance standards within a reasonable time as may be
29 necessary to ensure safety and reliability, or prevent environmental harm. The
30 DOE shall, within sixty (60) days upon receipt of such plan, evaluate the same
31 and notify the gas transmission utility concerned of its decision thereon.

1 Failure to submit a feasible and credible plan and/or failure to implement the
 2 same shall serve as grounds for the imposition of appropriate sanctions, fines
 3 or penalties pursuant to Section 39 of this Act.

4 SEC. 20. *ERC Rate Regulation of Gas Transmission Utilities.* – Gas
 5 Transmission Rate. Except as otherwise provided during the infrastructure
 6 development period, the ERC shall review and approve the rates, charges and
 7 other amounts proposed to be charged by the gas transmission utilities as
 8 provided under Section 33 of this Act. Where such rates are applicable to
 9 services provided to captive markets, the ratemaking methodology to be
 10 applied by the ERC shall be based on the principle of full recovery of prudent
 11 and reasonable costs incurred, including a reasonable return on rate base that
 12 is consistent with the encouragement of private investment and goal of
 13 developing a Downstream Natural Gas Industry infrastructure, or such other
 14 principles that will promote the determination of just and reasonable rates.
 15 Where a rate applicant successfully demonstrates that its rates will be
 16 applicable to contestable markets, the ERC shall have the authority to permit
 17 negotiated rates.

18 CHAPTER VI

19 DISTRIBUTION SECTOR

20 SEC. 21. *Permit.* – No person or entity shall undertake the
 21 construction, operation and maintenance of a natural gas distribution system
 22 unless it has secured a franchise: *Provided, however,* That for a period not
 23 exceeding five years after the effectivity of this Act, the DOE may issue a
 24 provisional permit with a maximum term of two years, renewable twice for a
 25 maximum cumulative term not exceeding six years for the continued operation
 26 of a gas distribution system constructed prior to and in operation as of the date
 27 of effectivity of this Act: *Provided, further,* That during the same period, the
 28 DOE may issue a permit for the expansion, extension or modification of a
 29 natural gas distribution system.

30 The DOE shall issue a public notice of all permit applications and
 31 afford interested parties an opportunity to comment on such applications. The

1 DOE shall issue a permit upon its determination that the construction,
2 ownership, control, installation, operation and maintenance of the gas
3 distribution systems would be consistent with the policy declarations contained
4 in this Act: *Provided, however,* That if a permit is sought for new service that
5 would be provided within the franchise area of another gas distribution utility,
6 the DOE shall consider the economic effects of granting such a permit upon
7 the gas distribution utility and its customers.

8 SEC. 22. *Terms and Conditions of Permits.* – In issuing a permit, the
9 DOE shall have the power to impose such reasonable terms and conditions to
10 a permit as the public interest may require. Among such conditions shall be
11 the requirement that the permit holder comply in full with the Gas Distribution
12 Code promulgated by the DOE pursuant to Section 5(g) of this Act.

13 SEC. 23. *Fees.* – The DOE shall have the authority to prescribe and
14 collect fees and charges relating to the issuance and/or review of permits,
15 supervision and regulation of gas distribution systems.

16 SEC. 24. *Abandonment of Gas Distribution Systems.* – No holder of a
17 permit for the construction, installation, operation or maintenance of a gas
18 distribution system shall abandon or withdraw from service any portion of
19 such gas distribution system without obtaining prior authorization from the
20 DOE, which determination shall be made within one hundred eighty (180)
21 days from the filing of the application for abandonment. Such abandonment
22 shall be done in accordance with existing laws.

23 SEC. 25. *Gas Distribution Code Compliance.* – All gas distribution
24 utilities shall be required to ensure and maintain the safety, reliability,
25 adequacy, security, stability and integrity of their gas distribution systems in
26 accordance with the performance standards set forth in the Gas Distribution
27 Code to be promulgated by the DOE. Each gas distribution utility shall submit
28 to the DOE a statement of its compliance with the technical specifications
29 prescribed in the Gas Distribution Code and the performance standards
30 prescribed in the implementing rules and regulations promulgated by the DOE
31 pursuant to Section 43 of this Act. A gas distribution utility that fails to

1 comply with any of the prescribed technical specifications or performance
2 standards shall include within such statement of compliance a plan for
3 achieving compliance with the said technical specifications and performance
4 standards within a reasonable time as may be necessary to ensure safety and
5 reliability, or prevent environmental harm. The DOE shall, within sixty (60)
6 days from receipt of such plan, evaluate the same and notify the gas
7 distribution utility concerned of its decision thereon. Failure to submit a
8 feasible and credible plan and/or failure to implement the same shall serve as
9 grounds for the imposition of appropriate sanctions, fines or penalties pursuant
10 to Section 39 of this Act.

11 SEC. 26. *Gas Distribution Rate.* – Except as provided for during the
12 infrastructure development period, the distribution rates charged by gas
13 distribution utilities shall be subject to regulation by the ERC based on the
14 principle of full recovery of prudent and reasonable economic costs incurred,
15 including a reasonable return on rate base that is consistent with the
16 encouragement of private investment and goal of developing the Downstream
17 Natural Gas Industry infrastructure, or such other principles that will promote
18 the determination of just and reasonable rates by the ERC. Where a rate
19 applicant successfully demonstrates that its rates will be applicable to
20 contestable markets, the ERC shall have the authority to permit negotiated
21 rates.

22 SEC. 27. *Functions of Gas Distribution Utilities.* – All gas distribution
23 utilities shall have the following functions:

24 (a) Obligation to provide distribution services and connections to its
25 gas distribution system for any end-user within the area covered by its permit
26 consistent with the Gas Distribution Code. Any gas distribution utility
27 engaged therein shall provide nondiscriminatory access to its gas distribution
28 system to suppliers and/or end-users entitled to retail access under Section 30
29 of Chapter VII of this Act. Any gas distribution utility shall be entitled to
30 impose and collect from such suppliers and/or end-users distribution charges
31 and connection fees as approved by the ERC after due notice and hearing;

1 (b) Ensure the safety, reliability, adequacy, security, stability and
2 integrity of their gas distribution systems in accordance with the technical
3 specifications and performance standards set forth in the Gas Distribution
4 Code to be promulgated by the DOE pursuant to Section 5(g) of this Act. Each
5 gas distribution utility shall submit to the ERC a statement of its compliance
6 with such technical specifications and performance standards. Any gas
7 distribution utility that fails to comply with any of the prescribed technical
8 specifications or performance standards shall include in such statement of
9 compliance an undertaking to comply with said technical specifications and
10 performance standards within a reasonable time as may be necessary to ensure
11 safety and reliability, or prevent environmental harm. The ERC shall, within
12 sixty (60) days upon receipt of such plan, evaluate the same and notify the gas
13 distribution utility concerned of its decision thereon. Failure to submit a
14 feasible and credible plan and/or failure to implement the same shall serve as
15 grounds for the imposition of appropriate sanctions, fines or penalties pursuant
16 to Section 39 of this Act;

17 (c) Provide universal service within the area covered by its permit
18 except as provided herein. Compliance with the universal service obligation
19 shall be addressed as part of the annual development and maintenance plan of
20 a gas distribution utility. A gas distribution utility shall be obliged to develop
21 and maintain an efficient system for the distribution of natural gas at the
22 reasonable request of end-users within its franchise area including:

23 (i) The installation of pipes where the connection to the end-user is
24 within twenty-five (25) meters of the gas distribution system; or

25 (ii) Increasing the capacity of existing gas distribution systems:
26 *Provided, however,* That no new service shall be required if such service
27 would not be economically viable. A determination by a gas distribution
28 utility that it cannot viably serve a portion of its franchise area shall be subject
29 to review by the ERC upon filing of a complaint by the requesting end-user.

30 The obligation of the gas distribution utility to provide universal access
31 involves both an obligation to connect end-users within twenty-five (25)

1 meters from the main pipeline and an obligation to supply such end-users, to
2 the extent the distribution utility is the sole gas supplier. Upon implementation
3 of third party access, the utility shall be relieved of its obligation to supply
4 end-users eligible for retail access as defined in the guidelines to be
5 promulgated by the DOE, but not its obligation to provide connection to its
6 distribution system to such end-users. Whether or not the gas distribution
7 utility is the sole gas supplier in the area, prices charged by the said utility for
8 the supply of gas shall be negotiated for the contestable market and regulated
9 by the ERC for the captive market; and

10 (d) Submit annually to the ERC its plan for maintaining and
11 developing its gas distribution system in compliance with the obligations
12 prescribed in this Act.

13 CHAPTER VII

14 SUPPLY SECTOR

15 SEC. 28. *Permit Requirement.* - Any law to the contrary
16 notwithstanding, no person may engage in any supply activity unless it has
17 obtained a permit from the DOE, initially: *Provided, however, That a gas*
18 *transmission utility or gas distribution utility that has secured a permit as such*
19 *pursuant to Section 9(c) of this Act and that supplies natural gas to its own*
20 *customers shall not be required to secure a separate permit to engage in its*
21 *supply activity. For this purpose, the DOE shall promulgate rules and*
22 *regulations prescribing the qualifications of suppliers which shall include,*
23 *among other requirements, a demonstration of their technical capability,*
24 *financial capability, creditworthiness and compliance with safety standards.*
25 *The DOE shall have the authority to require suppliers to furnish a bond or*
26 *other evidence of their ability to withstand market disturbances or other events*
27 *that may increase the cost of providing service.*

28 SEC. 29. *Supplier Rate and Service Regulation.* -

29 (a) The rates and service of suppliers to captive markets shall be
30 regulated by the ERC; and

1 (b) The rates and service of suppliers to contestable markets shall not
2 be subject to regulation by the ERC: *Provided, however,* That suppliers shall
3 be subject to the rules and regulations concerning abuse of market power,
4 cartelization and other anti-competitive or discriminatory behavior
5 promulgated by the ERC.

6 The supply of natural gas for electric generation and large end-users is
7 hereby deemed to be a contestable market. In all other cases, suppliers shall
8 bear the burden of demonstrating that a market is contestable.

9 SEC. 30. *Conditions for Retail Access to Gas Distribution Systems.* -
10 Following the infrastructure development period, retail access to gas
11 distribution systems shall be available to large end-users meeting criteria set
12 forth in the rules and regulations promulgated by the ERC pursuant to this Act.
13 The ERC shall determine when retail access may be available to other end-
14 users or classes of end-users, *giving consideration to relevant factors including*
15 *whether such end-users or class of end-users constitute a contestable market*
16 *and the financial consequences of any assets potentially stranded by expanding*
17 *retail access.*

18 CHAPTER VIII

19 TAXATION

20 SEC. 31. *Taxes.* - Gas transmission utilities, gas distribution utilities
21 and suppliers of natural gas shall be subject to the payment of all taxes,
22 duties, fees or charges and other impositions under the National Internal
23 Revenue Code (NIRC) of 1997, as amended, and other applicable laws:
24 *Provided, however,* That, in recognition of the substantial investments
25 needed for the construction, operation and maintenance of gas transmission
26 and gas distribution systems, gas transmission utilities and gas distribution
27 utilities shall, upon prior endorsement by the DOE and approval by the Board
28 of Investments, be entitled to income tax holiday and such other incentives
29 granted to pioneer enterprises under the Omnibus Investment Code, as
30 amended.

1 The commodity price of gas shall be the only component of the gas
2 retail rate which shall be subject to excise taxes under Republic Act No.
3 8424, otherwise known as the Comprehensive Tax Reform Law.

4 *SEC. 32. Withdrawal of Exemptions.* – Any law to the contrary
5 notwithstanding, to achieve the declared policies of this Act, particularly in
6 relation to the promotion of fair and nondiscriminatory treatment of public
7 and private sector entities in the development of the Downstream Natural Gas
8 Industry infrastructure, all existing tax exemptions applicable to persons
9 engaged in the transmission or the distribution of natural gas, insofar as such
10 exemptions relate to revenues derived from the transmission or the
11 distribution of natural gas, shall be deemed revoked upon the effectivity of
12 this Act.

13 CHAPTER IX

14 RATEMAKING REQUIREMENTS AND PROCEDURES

15 *SEC. 33. Ratemaking Requirements and Procedures of the ERC.* – (a)
16 Just and reasonable rates and charges. – All rates and charges for transmission,
17 distribution or supply of natural gas to the captive market and all rules and
18 regulations affecting or pertaining to such rates or charges shall be just and
19 reasonable. Any such rate or charge that is not just and reasonable is hereby
20 declared to be unlawful;

21 (b) Undue preferences and unreasonable rates and charges are
22 prohibited. – No gas transmission utility, gas distribution utility or supplier
23 shall, with respect to the transmission, distribution or supply of natural gas to
24 the captive market: (1) make or grant any undue preference or advantage, or
25 (2) maintain any unreasonable difference in rates, charges, service, facilities,
26 or in any other respect, between locations or between classes of service;

27 (c) Filing of rate schedules. – Under such rules and regulations as the
28 ERC may prescribe, after due notice and public consultation, the ERC may
29 require reports or documents from gas transmission utilities, gas distribution
30 utilities or suppliers to the captive market showing all rates and charges for the
31 transmission, distribution or supply of natural gas to the captive market and

1 the classifications, practice and regulations affecting such rates, charges, and
2 classifications and services: *Provided*, That the ERC shall provide appropriate
3 mechanisms to protect the confidentiality of any information that is
4 commercially or competitively sensitive; and

5 (d) Changes in rate and charges. – Within thirty (30) days upon filing
6 for an adjustment in rates, the ERC shall issue an order accepting, rejecting or
7 setting for hearing such adjustment. The ERC may, upon the filing of an
8 application therefor or at any stage thereafter, with or without prior hearing, on
9 the basis of supporting papers duly verified or authenticated, and with such
10 notice to the affected parties and opportunity for such parties to make such
11 submissions as the ERC determines to be appropriate in the circumstances,
12 grant provisional relief fixing interim rates for the transmission of natural gas
13 or distribution of natural gas or supply of natural gas to the captive market
14 applicable during the pendency of the hearing on the application, on motion of
15 a party in the case or on its own initiative, without prejudice to a final decision
16 after hearing, should the ERC find that the pleadings, together with such
17 affidavits, documents and other evidences which may be submitted in support
18 of the motion, substantially support the provisional order. The final order
19 fixing the applicable rates shall provide for over- or under-recovery of costs
20 occasioned by the application of ERC-approved interim rates. At any hearing
21 involving rates adjustment, the burden of proof to show that the increased rates
22 are just and reasonable shall be upon the gas transmission utility, gas
23 distribution utility or supplier to the captive market.

24 CHAPTER X

25 PROMOTION OF COMPETITION

26 SEC. 34. *Anti-Competitive Behavior*. – No gas transmission utility, gas
27 distribution utility or supplier, or affiliate thereof, may engage in any anti-
28 competitive behavior or abuse of market power including, but not limited to:

29 (a) Agreements, decisions and concerted practices of persons or
30 associations of persons to fix prices and/or fix output; and

1 (b) Other practices and/or conduct by a person or *groups of persons*
2 that restrict, prevent or distort competition such as, but not limited to,
3 predatory pricing and practices, excessive pricing, bundling and other vertical
4 restraints, denial of access to essential facilities on fair terms, discriminatory
5 conditions on transactions that restrict, prevent or distort *competition*.

6 SEC. 35. *Measures to Promote Competition*. – Subject to the
7 provisions of relevant laws, the ERC shall adopt measures and/or
8 corresponding remedies to promote competition following an investigation of
9 the relevant circumstances and a definitive *finding of*:

10 (a) Price and/or output fixing; or

11 (b) Other practices/conduct that are the subject of investigation restrict
12 and/or prevent and/or distort competition.

13 Such remedies shall, without limitation, include the imposition of price
14 controls, issuance of injunctions or disgorgement of excess profits and
15 imposition of administrative fines and penalties pursuant to this Act.

16 SEC. 36. *Functional and Structural Unbundling*. – When prevailing
17 market conditions so require, any *Downstream Natural Gas Industry*
18 participant shall functionally and structurally unbundle its business activities
19 and rates in accordance with the sectors as identified in Section 7 hereof. The
20 ERC shall ensure full compliance with this provision.

21 SEC. 37. *Complaint Procedures*. – The ERC shall, within one year
22 from the effectivity of this Act, promulgate rules and regulations providing for
23 a complaint procedure that, without limitation, provides the party alleged to
24 have engaged in anti-competitive or abusive activities with notice and an
25 opportunity to be heard.

26 SEC. 38. *Affiliated Suppliers*. – In order to prevent anti-competitive
27 conduct, service contractors, gas transmission utilities and gas distribution
28 utilities that own or control affiliates that are suppliers shall conduct their
29 business as follows:

1 (a) No preference will be given to the affiliated supplier over other
2 persons through contracting for available capacity, scheduling, balancing,
3 curtailment priority or tariffs;

4 (b) Marketing information provided to the affiliated supplier will be
5 provided to any nonaffiliated supplier that is a competitor or potential
6 competitor;

7 (c) Employees of the affiliated supplier shall, to the maximum extent
8 possible, function independently in making business decisions; and

9 (d) Books of accounts and records of the affiliated supplier shall be
10 maintained separately.

11 As used herein, "affiliate" refers to any person or entity which, alone or
12 together with any other person or entity, directly or indirectly, through one or
13 more intermediaries, controls, or is controlled by another person or entity. As
14 used herein, "control" shall mean the power to direct or cause the direction of
15 the management policies of a person by contract, agency or otherwise.

16 *SEC. 39. Administrative Fines and Penalties. –*

17 (a) The administrative fines and penalties that may be imposed by the
18 ERC or the DOE, as the case may be, for any violation of or noncompliance
19 with this Act or its implementing rules and regulations shall range from a
20 minimum of Fifty thousand pesos (P50,000.00) to a maximum of Fifty million
21 pesos (P50,000,000.00);

22 (b) Any person who is found to have engaged in any of the prohibited
23 acts pursuant to Section 34 of this Act shall suffer the administrative penalty
24 or fine ranging from Ten thousand pesos (P10,000.00) to Ten million pesos
25 (P10,000,000.00), at the discretion of the ERC or the DOE, as the case may
26 be;

27 (c) The members of the board of directors or any person that violates
28 the provisions of this Act may be fined by an amount not exceeding double the
29 amount of damages caused by the offender at the discretion of the ERC or the
30 DOE, as the case may be. This rule shall apply to the members of the Board

1 who, knowingly or by neglect, allow the commission or omission under the
2 law;

3 (d) Any party to an administrative proceeding may, at any time, make
4 an offer to the ERC or the DOE, as the case may be, conditionally or
5 otherwise, for a consent decree, voluntary compliance or desistance and other
6 settlement of the case. The offer and any or all of the ultimate facts upon
7 which the offer is based shall be considered for settlement purposes only and
8 shall not constitute an admission by the party making the offer of any violation
9 of the laws, rules, regulations, orders and resolutions of the ERC or the DOE,
10 as the case may be, nor as a waiver to file any warranted criminal actions; and

11 (e) Congress may, upon recommendation of the ERC or the DOE, as
12 the case may be, revoke such franchise or privilege granted to the party found
13 in violation of the provisions of this Act.

14 CHAPTER XI

15 ANTI-PILFERAGE AND ANTI-THEFT PROVISIONS

16 SEC. 40. *Pilferage.* – It is hereby declared unlawful for any person to:

17 (a) Tap, make or cause to be made any connection with any gas
18 transmission system or gas distribution system without previous authority or
19 consent of the gas transmission utility or gas distribution utility concerned;

20 (b) Tamper, install or use tampered meters or any other device which
21 interferes with proper or accurate registry or metering of natural gas flows or
22 otherwise results in its diversion in a manner whereby natural gas is stolen or
23 wasted;

24 (c) Damage or destroy any natural gas meter, equipment, pipeline or
25 conduit or any part of a gas transmission system or gas distribution system or
26 allow any of them to be so damaged or destroyed as to interfere with the
27 proper or accurate metering of natural gas flows; and

28 (d) Knowingly use or receive the direct benefit of natural gas delivery
29 service obtained through any of the acts mentioned in paragraphs (a), (b) and
30 (c) above.

1 SEC. 41. *Theft of Equipment and Materials.* -- It is hereby declared
2 unlawful for any person to:

3 (a) Cut, saw, slice, separate, split, severe, smelt or remove any portion
4 of a gas transmission system or gas distribution system, including pipeline
5 materials and meters, from any installation or place of installation or any other
6 place or site where it may be rightfully or lawfully stored, deposited, kept,
7 stocked, inventoried, situated or located, without the consent of the gas
8 transmission utility or gas distribution utility concerned, whether or not the act
9 is done for profit or gain;

10 (b) Take, carry away or remove or transfer, with or without the use of a
11 motor vehicle or other means of conveyance, load, carry, ship or move from
12 one place to another, whether by land, air or sea, any portion of a gas
13 transmission system or gas distribution system, including pipeline materials or
14 meters, from any installation or place of installation, or any place or site where
15 it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried,
16 situated or located without the consent of the gas transmission utility or gas
17 distribution utility concerned, whether or not the act is done for profit or gain;
18 and

19 (c) Store, possess or otherwise keep in his premises, custody or
20 control, without lawful purpose, any portion of a gas transmission system or
21 gas distribution system, including pipeline materials or meters, without the
22 consent of the gas transmission utility or gas distribution utility concerned,
23 whether or not the act is done for profit or gain.

24 SEC. 42. *Penalties.* --

25 (a) *Violation of Section 40.* -- The penalty of *prision mayor* or a fine
26 ranging from Ten thousand pesos (P10,000.00) to Twenty thousand pesos
27 (P20,000.00) or both, at the discretion of the court, shall be imposed on any
28 person found guilty of violating Section 40 of this Act.

29 (b) *Violation of Section 41.* -- The penalty of *reclusion temporal* or a
30 fine ranging from Fifty thousand pesos (P50,000.00) to One hundred thousand

1 pesos (P100,000.00) or both, at the discretion of the court, shall be imposed
2 on any person found guilty of violating Section 41 of this Act.

3 (c) Provision common to violations of Sections 40 and 41 hereof. – If
4 the violation of Section 40 or Section 41 of this Act is committed by, or in
5 connivance with, an officer or employee of the gas transmission utility or gas
6 distribution utility concerned, such officer or employee shall, upon conviction,
7 be punished with a penalty one degree higher than the penalty provided herein,
8 and forthwith be dismissed and perpetually disqualified from employment in
9 any public or private utility or service company and from holding any public
10 office.

11 If the violation of Section 40 or Section 41 of this Act is committed by
12 a partnership, firm, corporation, association or any other legal entity, including
13 a government-owned or -controlled corporation, the penalty shall be imposed
14 on the president, manager and each of the officers thereof who shall have
15 knowingly permitted, failed to prevent or was otherwise responsible for the
16 commission of the offense.

17 CHAPTER XII

18 FINAL PROVISIONS

19 SEC. 43. *Implementing Rules and Regulations.* – The DOE shall, in
20 consultation with the ERC, appropriate government agencies, the Downstream
21 Natural Gas Industry participants, nongovernmental organizations and end-
22 users, promulgate implementing rules and regulations (IRR) within six months
23 from the effectivity of this Act.

24 SEC. 44. *Natural Gas Oversight Commission.* – Upon the effectivity of
25 this Act, a congressional commission, hereinafter referred to as the “Natural
26 Gas Oversight Commission”, is hereby constituted. The Natural Gas
27 Oversight Commission shall be composed of ten (10) members, with the
28 chairmen of the Committee on Energy of the Senate and the House of
29 Representatives and four additional members from each House, to be
30 designated by the Senate President and the Speaker of the House of
31 Representatives, respectively. The minority shall be entitled to pro rata

1 representation but shall have at least one representative in the Natural Gas
2 Oversight Commission.

3 The Natural Gas Oversight Commission shall, in aid of legislation,
4 perform the following functions, among others:

5 (a) Set the guidelines and overall framework to monitor the proper
6 implementation of this Act;

7 (b) Look into the appropriateness of creating a single independent
8 regulatory body when the conditions prevailing so require;

9 (c) Conduct a periodic review of this Act at least once every three
10 years;

11 (d) Determine inherent weaknesses in the law and recommend
12 necessary remedial legislation or executive measures;

13 (e) Approve the budget for the programs of the Natural Gas Oversight
14 Commission and all disbursements therefrom, including compensation of all
15 personnel;

16 (f) Submit periodic reports to the President of the Philippines and
17 Congress; and

18 (g) Perform such other powers and functions as may be necessary to
19 attain its objectives.

20 To carry out its powers and functions, the initial sum of Fifteen million
21 pesos (P15,000,000.00) shall be charged against the current appropriations of
22 the Senate. Thereafter, such amount necessary for its continued operation
23 shall be included in the annual General Appropriations Act.

24 The Natural Gas Oversight Commission shall adopt its internal rules of
25 procedure; conduct hearings and receive testimonies, reports and technical
26 advice; invite or summon by subpoena *ad testificandum* any public official,
27 private individual or any other person to testify before it, or require any person
28 by subpoena *duces tecum* to produce before it such records, reports,
29 documents or other materials as it may require; and generally require all the
30 powers necessary to attain the purposes for which it is created. The Natural
31 Gas Oversight Commission shall be assisted by a secretariat to be composed

1 of personnel who may be seconded from the Senate and the House of
2 Representatives and may retain consultants. The secretariat shall be headed by
3 an executive director who has sufficient background and competence on the
4 policies and issues relating to the Downstream Natural Gas Industry reforms
5 as provided in this Act.

6 The Natural Gas Oversight Commission shall exist for a period of ten
7 (10) years from the effectivity of this Act and may be extended by a joint
8 resolution.

9 SEC. 45. *Separability Clause.* – If, for any reason, any provision of this
10 Act is declared unconstitutional or invalid, the other parts or provisions hereof
11 which are not affected thereby shall continue to be in full force and effect.

12 SEC. 46. *Nonretroactivity, Applicability and Repealing Clause.* – The
13 provisions of Republic Act No. 387, otherwise known as the “Petroleum Act
14 of 1949”, as amended, Presidential Decree No. 87, Republic Act No. 8997,
15 and all other laws, decrees, executive orders, rules and regulations, circulars
16 and other issuances inconsistent with the provisions of this Act are hereby
17 repealed or modified accordingly.

18 SEC. 47. *Transitory Provision.* – Gas transmission systems and gas
19 distribution systems that have been constructed and have commenced
20 operation prior to the date of effectivity of this Act shall continue to operate
21 under their existing authorities: *Provided, That they have complied with*
22 *existing laws, rules and regulations prior to the effectivity of this Act and have*
23 *secured a provisional permit from the DOE as provided in Sections 15 and 21*
24 *of this Act. Suppliers who have entered into gas sales and purchase contracts*
25 *with customers and have delivered indigenous or imported natural gas under*
26 *said contracts prior to the date of effectivity of this Act shall continue to sell*
27 *natural gas under their existing authorities provided they have complied with*
28 *existing laws, rules and regulations prior to the effectivity of this Act.*

29 Nothing in this Act shall be deemed to revoke or otherwise modify the
30 powers and functions of the Philippine National Oil Company and its
31 subsidiaries under Presidential Decree No. 334, as amended, any existing

1 concession granted under the Petroleum Act of 1949, as amended, certificate
2 of public convenience or certificate of public convenience and necessity
3 granted pursuant to the Public Service Law, as amended, specific franchise for
4 the transmission, distribution or supply of natural gas or other administrative
5 or regulatory permit or contract, which concession, certificate, franchise,
6 permit or contract shall be allowed to its full term but may not be renewed
7 except pursuant to the provisions of this Act.

8 For a period not exceeding five years after the effectivity of this Act,
9 the DOE may issue provisional permits, with a maximum term of two years,
10 renewable twice for a maximum cumulative term not exceeding six years, for
11 the construction, operation and maintenance of pipelines and related facilities
12 for the transmission, distribution and supply of natural gas.

13 SEC. 48. *Effectivity Clause.* – This Act shall take effect on the fifteenth
14 (15th) day following its publication in the *Official Gazette* and in at least two
15 national newspapers of general circulation.

Approved,

0